



Llywodraeth Cymru
Welsh Government

Welsh Government Integrated Impact Assessment Summary

Title of proposal: Consultation on Pension Entitlements for Retained Firefighters 2023

Department: Covid Recovery & Local Government Group

Minister responsible: Deputy Minister for Social Partnership, Hannah Blythyn

Start Date: 14 July 2023

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What action is the Welsh Government considering and why?

1. Our proposals cover two separate issues.
2. **Part 1** - sets out proposals to provide access to firefighter pensions for Retained Duty System (RDS) firefighters with service between 7 April 2000 and 5 April 2006 (to include access relating to pre 2000 RDS service).
3. On Call Retained Duty System (RDS) firefighters in Wales did not have access to an occupational pension scheme until the Firefighters' Pension Scheme 2007 (the 2007 Scheme) was introduced retrospectively from 6 April 2006. At the time, no provision was made for RDS service earlier than April 2006.
4. In 2014, the Welsh Government, along with other administrations, introduced significant modifications to the 2007 Scheme to provide access to pension benefits for RDS firefighters who were employed on or after 1 July 2000. This was because of a House of Lords judgment in 2006 (Matthews and others vs Kent Fire Authority and others)¹ and a subsequent employment tribunal decision that ruled, under the Part Time Working Regulations 2000, RDS firefighters should be treated equally with whole-time regular firefighters with regard to their terms and conditions of service, including pension benefits.
5. Similar arrangements were introduced for part time workers in other pension schemes, but in 2018 these were challenged in the Judicial Pension Scheme (O'Brien v Ministry of Justice) in which a recorder argued that the full extent of his part-time judicial service should be pensionable, not just that after 2000. The Court of Justice of the European Union (CJEU), (on reference from the Supreme Court) in 2018, ruled that pension rights should be backdated to include service prior to the introduction of the Part Time Working Regulations 2000.
6. This consultation relates to changes to correct the position for RDS firefighters. It will allow eligible firefighters to elect to purchase any, or all, of their past service for pension purposes. This will have retrospective effect only; all firefighters (including RDS firefighters) are now automatically enrolled in an occupational pension scheme, although they can opt out if they wish.
7. **Part 2** - sets out proposals to amend the Firefighters' Compensation Scheme (Wales) Order 2007 to ensure that the scheme fairly covers firefighters' duties covered by certain secondary contracts, and that compensation is calculated based on a firefighter's full service, not just service covered by a secondary contract.
8. Many firefighters hold secondary contracts to undertake retained firefighting duties, in addition to their role as a wholetime firefighter under a primary contract of employment. Under current scheme provisions, should an injury occur which was solely attributable to the duties under the retained contract, injury benefits would be based on the pay and service under the second retained contract only, any service under their primary wholetime contract would be disregarded. This consultation relates to changes to allow firefighters access to compensation scheme benefits which are calculated based on the full length of service, and total pay (whether or not pensionable), under the same employer.

¹ [2006] UKHL 8

Conclusion

9. How have people most likely to be affected by the proposal been involved in developing it?

9.1 The proposal originates in successful litigation brought by members of the Fire Brigades Union, on behalf of retained duty system firefighters, under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000. The scheme was modified in 2014 to allow post 2000 membership. This proposal will allow eligible RDS members to purchase some or all their service prior to and post April 2000 up to 1 April 2022 in the Modified Scheme. This will apply to those who were not given the opportunity to purchase **all** their past service in the previous Matthews options exercise (which only applied from 1 July 2000 onwards).

9.2 A Memorandum of Understanding (MoU) has been signed between the Home Office, Local Government Association, Fire Brigades Union and Fire and Rescue Services Association. Although the MoU does not apply to Wales, we have used the principles that it contains, which have been agreed by employers and the Unions, as the basis for our proposals for RDS firefighter pensions in Wales. The proposals have been developed in consultation with the Firefighters' Pension Scheme Advisory Board for Wales, the membership of which includes the three Fire and Rescue Authorities in Wales and the four recognised firefighters' unions and representative bodies.

10. What are the most significant impacts, positive and negative?

The proposed amendments have been formulated to rectify and provide RDS firefighters with the opportunity to purchase retrospective service because of the O'Brien judgment. All members in scope will have equal access to the remedy.

11. In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

The proposed amendments aim to eliminate unlawful treatment of part-time workers in the pension scheme and contributes to a more equal Wales. There are no negative impacts as a result. The proposals will have a long-term impact on eligible firefighters because the changes will alter their occupational pension entitlements. The proposals have been developed in collaboration with firefighter employers and employee representatives.

12. How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

Whilst there will be no formal monitoring, the impact of remedy will continue to be discussed at the Firefighter Pension Scheme Advisory Board for Wales at which employer and employee representatives can raise issues regarding the provisions themselves and their practical implementation. The Firefighters' Pension Scheme Advisory Board for Wales is responsible for providing advice, on request, to Welsh Ministers, scheme managers and local pension boards in relation to the effective and efficient administration and management of the various pension schemes.

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Gymraeg. This document is also available
in Welsh.